

MINUTES

**CITY OF WARR ACRES
REGULAR CITY COUNCIL MEETING
TUESDAY
DECEMBER 2, 2003
7:00 P.M.**

1. The meeting was called to order at 7:00 p.m. Declaration of a quorum present was given. The Flag salute was given by Jeremy Martin, Senior Patrol Leader, from Troop 553 and Invocation was lead by Reverend Lynn Sylvester, MacArthur Free Methodist Church.

ROLL CALL

PRESENT

Mayor Marietta Tardibono
Vice-Mayor Justin Frisbie
Councilman Jimmy Alexander
Councilman Walter Johnson
Councilman Bob Wehba
Councilman Barry Curl
Councilman Tom Smith
Councilman Greg Hayes

ABSENT

Councilman Mike Gossman

DEPARTMENT HEADS AND CONSULTANTS PRESENT

Pamela McDowell-Ramirez, City Clerk
Roger Patty, Police Chief
Rob Carter, Acting Fire Chief
Greg Armstrong, City Inspector
Scott Barrett, City Engineer
Wiley Rice, City Planner
Bob Jernigan, City Attorney

2. Presentation of Certificate and pin to Yolonda Gunter from Bethany/Warr Acres Public Works Authority.

The Mayor made a presentation to Yolanda Gunter of a Certificate and pin for her 25 years of dedicated service.
3. Questions and Comments from Warr Acres Residents.

Tommy Pike questioned a tax listed on his property taxes. He stated that he called the County and they told him that it was the Tinker tax, but he understands that it is really a judgment from the city. Attorney Bob Jernigan stated that everyone was aware that the judgment would be placed on the tax rolls since the State Auditor, the City's Auditor and the Attorney General's office all agree that judgments must be placed on the tax rolls. The judgment was paid for by the city's general fund and is being reimbursed over a three year time period by the residence through their property taxes.

4. CONSENT DOCKET: (individual items may be deleted from the consent docket for discussion and action under #5.
 - A. Approval of Minutes – Regular City Council Meetings of November 18, 2003. ****
 - B. Approval of Expenditures –

General Fund	\$ 33,110.06
Street & Alley	\$ 1,734.59
 - C. Approval of Proposed Expenditures for November 2003. ****
 - D. Receive the Planning Commission minutes for November 11, 2003 continued to November 17, 2003. (Not yet approved by the Planning Commission)

Motion by Frisbie, second by Curl to approve the Consent Docket. Poll vote: Alexander, yea; Johnson, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

5. Discussion and possible action on items removed from the consent docket.

Moot.

6. Receive reports from Staff: Police, Fire, City Clerk, City Inspector, Street, Sanitation, Sewer, City Engineer, City Planner, Planning Commission Chairman, Traffic Commission Chairman and Board of Adjustment Chairman.

Chief Patty stated he had just received a page that the television problem was not yet corrected.

The Mayor stated that each time she noticed the picture was not clear she would reset the television in an attempt to correct the problem.

Earl Hayes-Sanitation Supervisor-stated things were going well. With the Thursday and Friday holidays it caused Monday and Tuesday to be heavy but the work was completed during their regular 10 hour day.

Councilman Curl-spoke for PC Chairman Bob Carter-saying he had nothing to report to the Council. He gave the clerk copies of the proposed new permits so copies could be made for the entire council.

7. Discussion and possible action on the City of Bethany providing Animal Control Services for the City of Warr Acres. *Tardibono*

Mayor Tardibono thanked Bethany for their proposal. She stated that the cost was too high and that an ad had been run in search of candidates for the Animal Control position. She stated that applications would be taken until 5 pm on December 12th. Also nothing will be done until after the Personnel Board Hearing.

8. Discussion and possible action on the purchase of a new television and camera for the Council Chambers. *Smith & Hayes*

Councilman Smith stated that he had contacted a couple of different companies and had not received information back yet. He stated that one of the companies the city has used in the past and he would really like the city to use them again. He stated that the Mayor of Edmond had invited the council to come and check out their system. Tommy Pike stated that the equipment should be provided by Cox. Mr. Jernigan stated that it was not.

No action was needed at this time.

9. Discussion and possible action on appointing Bob Wehba to serve on the Bethany/Warr Acres Public Works Authority from January-December 2004.

Councilman Johnson wanted to know if the Mayor had the right to make the appointment or if it was the Council that should make the appointment. The Trust Indenture was retrieved and it was read by Mr. Jernigan that the presiding officer of the Council will make the appointment.

Motion by Alexander, second by Curl to approve the appointment of Councilman Wehba to the Bethany/Warr Acres Public Works Authority. Poll vote: Alexander, yea; Johnson, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

10. Final Public Hearing and possible action on a SBC telecommunications cabinet located at 34th and Peniel. (Heard before the Planning Commission on November 11, 2003 and continued to November 17, 2003. And on November 26, 2003.)

Mr. Brown, whose mother lives next door, stated that it ruins the view and is excessive. He stated that he was not notified of the last meeting the city held. He

also stated that SBC says that they can not move the cabinet but its not that they can't, they do not want to. The Mayor asked Mr. Brown if he was in negotiations with SBC. He stated that he had been. Mr. Leon and SBC's attorney stated that negotiations are no longer on. They stated that they will clean up the area and make it look better. They could put up a sight proof fence. Their attorney stated that this will allow 1500-1600 customers to have High Speed Internet in their homes. Councilman Wehba stated that there were several things done wrong concerning this cabinet. Councilman Curl stated that he had been impressed with SBC in the past with the way their work was handled but this time they were wrong and have caused a big problem. Both Councilmen expressed that there are proper procedures to follow and they were not abided by here. Councilman Curl stated that he would like to have had the minutes from the Special Planning Commission meeting from November 26, 2003 to see what the Planning Commission decided concerning this issue. Planning Commissioner Dale Williams was asked to tell the council what the Planning Commission's decision was. He stated that they voted against the issuance of the Special Use Permit and rescinded the first plan to have the cabinet moved. Chairman Carter was the only vote against denying the permit. Councilman Johnson said he had no good feelings about SBC; they had done too many things wrong. Councilman Smith said that SBC could actually move the cabinet in front of the house on the right of way. He asked which was the lesser of the two evils the right of way in the front yard or where it is. At least where it is now the city can place some restrictions on it.

Motion by Frisbie, second by Smith to close the Public Hearing. Poll vote: Alexander, yea; Johnson, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

Councilman Johnson reminded the council that the Planning Commission turned the permit down. The Mayor asked about the guy wires that SBC had stated they would check into having moved. Mr. Leon stated that one was SBC and they could move it; the other two belonged to Cox and OG&E.

Motion by Smith, second by Hayes to approve the Special Use Permit with the following conditions: move the existing box off the right of way in conjunction with the new facility, install and maintain landscaping and sight proof fencing satisfactory to the city, remove the SBC guy wire and the two black poles also to allow SBC the same ingress and egress rights that they had to maintain the box that is being moved off the right of way. Poll vote: Alexander, yea; Johnson, nay; Wehba, yea; Frisbie, yea; Curl, nay; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed.

11. Discussion and possible action on providing services to FEMA relating to the Storm Shelter rebate program. *Carter*

Chief Carter stated that he and Inspector Armstrong attended a meeting with FEMA and they are asking the city to assist them in the Storm Shelter program. They want the city to inspect the shelters; the citizens will present their paperwork to the city, the city will assist them in filling out the paperwork, sign off on the paperwork, mails it to FEMA, then FEMA sends the money to the city, the city would then deposit the funds appropriate the funds and the citizen would have to file a claim with the city and with approval of council receive their money. The city will only receive \$25 for each shelter, which will not cover the cost expended by the city. Councilman Wehba asked who would handle it if the city did not, would the citizens be left out. Chief Carter stated that he did not know, but he could find out. He stated that in the past FEMA took care of everything so he was pretty sure the citizens would not be left out.

Motion by Wehba, second by Curl to table until the January meeting so Chief Carter could check and make sure the Warr Acres residents would not be left out if the city did not assist FEMA. Poll vote: Alexander, yea; Johnson, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

12. Discussion and possible action on a recommendation from the Traffic Commission to request the agreement between Warr Acres and Oklahoma City be honored in regards to the signalization that allows emergency vehicles to pass through with a green light at 50th and Dolese. *Patty*

Chief Patty stated that he sent a letter to OKC but had not heard back. Hopefully he will have an answer by the January meeting.

Motion by Wehba, second by Frisbie to table until the January in order to give OKC a chance to respond. Poll vote: Alexander, yea; Johnson, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

13. A) Discussion and possible action on the purchase of one used 2001 Crown Vic Police Unit from Salt Lake County, Utah using LLEBG Grant money of \$10,300. *Patty*
- B) Discussion and possible action on authorization to fly one employee from the Police department to Utah to pickup the 2001 Crown Vic also per diem for fuel and meals. *Patty*

Chief Patty stated there were many benefits of purchasing the unit from Salt Lake County the main benefits were less expensive and it would have less miles on it will below what could be purchased from Missouri or Kansas. The money needed to fly an employee out to retrieve the car and bring it back would come out of the police department training and travel account. Councilman Johnson asked what happens if they get out to Salt Lake and find the car unacceptable. Chief Patty stated that they had other cars available and they could pick one of those. Councilman Johnson stated that he really did not see much savings. Chief Patty said that instead of paying \$12,200 they were only paying \$10,300 and with less miles. Also these cars have been used by police, fire, inspectors or county officials. Tommy Pike stated that since they are from an area of the county that has a lot of snow it could be rusted out due to the salt. Chief Patty stated that he did not think so from the information he had been given but that he would have Major Markstone check it out before purchasing it.

Motion by Wehba, second by Curl to approve the purchase of the unit and expenditure of funds to send Major Markstone to pick the unit up. Poll vote: Alexander, yea; Johnson, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

14. Discussion and possible action on instructing the City Engineer to coordinate with ODOT on preparation of the MacArthur Project that has been approved by ACOG for funding in 2004. *Smith*

Councilman Smith stated that Warr Acres was approved for the MacArthur project at the last ACOG meeting. He stated that if the project does not get done now it will be 2008 before funding will be available again. He questioned why the feds granted \$3.7 million for the project when the estimates were for \$2.7 million. He believes this amount includes the money for right of ways. He stated that the 2004 funding would mean bidding in 2004 work in 2005. Scott Barrett stated the first thing that needed to be done is get was to get a todo list together and make sure there are no problems with moving utilities, such as the Ann Arbor project. Then there will be a clearer picture of whether the city can do MacArthur or not. Councilman Smith asked the council when they wanted to commit, and if they wanted to wait four more years. Warr Acres share will be 20% and must pay before bidding the job. The city is responsible for the cost of moving the utilities and acquiring the right of ways. Scott Barrett stated that a final estimate will be done before moving any utilities. Councilman Wehba stated that previously the County had offered to help. Tommy Pike wanted to know if this was the whole project or only a portion. He stated that a past council had requested the south section be done first. Councilman Smith stated that it was only the center section from 50th to 63rd.

Motion by Frisbie, second by Curl to instruct the City Engineer to compile a list of things that need to be done and then the council and decide at that time. Poll vote: Alexander, yea; Johnson, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

15. Discussion and possible action for the appointment to the Traffic Commission Ward III, to complete Jesus Morales term. Term to expire March 2005.

Councilman Alexander nominated Lewis Davis and Monte Wallin.

Motion by Frisbie, second by Johnson to close the nomination. Poll vote: Alexander, yea; Johnson, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

Alexander, Davis; Johnson, Davis; Wehba, Davis; Frisbie, Wallin; Curl, Wallin; Smith, Wallin; Hayes, Davis; and Tardibono, Davis.

Lewis Davis was appointed to the Ward III, Traffic Commission seat by a vote of five to three.

16. Questions and comments from Council members.

Councilman Smith-said at the last Garber-Wellington meeting at ACOG there was concern about

Councilman Curl-wanted to know if there was any news on the NW Highway and MacArthur project. Scott Barrett said that he had spoken with them today and plans were being worked on along with additional openings in the median along NW Highway.

Mayor Tardibono-since this is the only meeting this month she wanted to wish everyone Happy Holidays and a Blessed New Year.

Councilman Wehba-wants the City Clerk to provide the council with where all the money is for the MacArthur project.

Councilman Johnson-stated if there were no further questions for the employee that were present they should be allowed to go home.

Councilman Alexander-wished everyone Happy and Save Holidays.

The Mayor stated they were free to go.

Mayor Tardibono called for a 10 minute recess at 8:35 p.m.

The meeting reconvened at 8:48 p.m.

17. Discussion and possible action on a request from Bob Cunningham for an extension of full paid benefits for additional 6 months as provided by law.

Richard Herron, attorney for Mr. Cunningham, stated that he had spoken to Mr. Jernigan and the city had received a letter from Mr. Cunningham's other attorney who handles his workers comp claim. Under State Statute the council has the opportunity to extend the benefits of an injured employee, in this case a fireman, for additional six months and that is what he is requesting for Mr. Cunningham. He stated that some time in October Mr. Cunningham's pay was cut off and the city has not seen fit to apply his sick, vacation or comp time to this point. He is asking the city to do the right thing the fair thing and to treat Mr. Cunningham the way they would want to be treated if they found themselves in his situation. He then began describing the situation in which Mr. Cunningham finds himself. He stated that Mr. Cunningham was injured on the job in July 2002 while investigating a fire. A beam fell, knocking him to the ground, actually knocking him unconscious, and he sustained an injury. He prepared a report that very day and was informed by Nancy Jones and Nancy Olson that he could not file his injury report. He requested further for the report to be filed and was not told that not only could he not file his report but that he was not entitled to see a doctor through the workers comp system. He contacted his own doctor and his own doctor did not want to treat him because it was a workers comp claim. He kept pressing the issue and pressing the issue and finally went on his own to Concentra without the city's permission. He saw Dr. Rivera at Concentra. After seeing Dr. Rivera he saw Dr. Davenport; his own doctor, Dr. Bundy; another doctor, Dr. McClure; another doctor prescribed by Workers comp, Dr. Pedigrue; and as ordered by the Workers comp Judge, Dr. Jenson; and most recently a spine specialist, Dr. Wright. The city, he stated he did not want to cast dispersions upon the city, but it is clear to him that Mr. Cunningham was not treated fairly from the beginning. And that there was a clear belief that he was not injured. It is now determined that he has a broken spine. That he fractured three vertebrae in his back and Dr. Wright, who is a spine specialist, has discovered that. Dr. Wright indicated to Mr. Cunningham that if he had come to him in the beginning he could have easily fixed the problem, however, now the fractures have partially healed and healed in a manner that causes tremendous pain and discomfort in his back, and in his hip and down his leg and into his foot. He is now going through the Workers Comp system, and if anyone has ever been through that system knows it is very laborious. Everything that the doctor wants to do has to be approved, and so he is going through that approval process. It is taking an immense amount of time to get an MRI, immense amount of time to get X-rays of his back, an immense amount of time, what Dr. Wright would like to perform certain epidurals on his back, he is going through the process to get that done. If that is not

successful then Dr. Wright indicates he will have to have surgery. Given all that he has gone through, he stated he thinks it is only fair to treat him fairly. He is a 25 year veteran of the city, he is a servant of the city, and he had an unblemished record until Mayor Wood's tenure and he stated that he would not go into dispersions on that. But clearly he has been a good public servant for the city. What he is asking for today is to treat him in the way you would want to be treated if you found yourself in the situation where you were injured on the job and treatment was not forth coming. Initially you did not get your treatment, but he is getting it now and hopefully in the next six months they will know what his prognosis is. He only found out in November that he actually had a fractured spine. That was just discovered and they don't know what his prognosis is going to be, they know that through treatment it may be fine and he may be ok, or he maybe complete temporary disabled. He may have to have surgery and he may be permanently disabled. He stated that he did not know at this point but what he is asking for is for the city to fairly consider giving him another six months to determine exactly what the extent of the injuries are now that he knows what his injury is. And to determine if it is a permanent or temporary disability.

Councilman Wehba asked Mr. Herron to repeat the first part of his statement when he first started speaking. Mr. Herron said that he started with his name. Councilman Wehba stated that was not what he wanted. He wanted him to repeat what he said when he first started speaking, there was a statement he made Councilman Wehba would like to hear again. Councilman Curl stated that he made a statement that Mr. Cunningham was denied his right. Councilman Wehba asked him to start again that it was something about Mr. Cunningham's sick leave. Bob Jernigan, stated that what he is referring to is that the city has withheld payment of any of his benefits of sick leave or vacation time. Mr. Herron stated that he felt that was true. Bob Jernigan stated that he disagreed. Mr. Herron stated that none of his sick leave and none of his vacation have been applied. Mr. Jernigan, said to Mr. Herron that they had discussed this and Mr. Herron was told that he had to make application for the benefits and that was not done. Mr. Jernigan continued by saying that they had also discussed the fact that if the extension is approved then there will be no need to go for the benefits. He asked Mr. Herron if this was correct. Mr. Herron stated that it was not correct but was a point he thought was irrelevant at this point. What he is asking for is for the six month extension to be applied. Mr. Jernigan stated that Councilman Wehba was asking a question and that Mr. Herron made a statement and inferred that the city has intentionally withheld those benefits, when Mr. Jernigan had informed him that all he had to do was ask for the benefits to be paid. You did not do that and sent Mr. Jernigan a letter and he advised that he would place it on the Council agenda and if the Council did not approve the extension then they would deal with the benefits. Mr. Herron stated that is what Mr. Jernigan had told him. Councilman Hayes said he had a question and asked Mr. Herron how many doctors Mr. Cunningham had seen, roughly. Mr. Herron counted and said seven. Councilman Hayes said seven, it took seven doctors over a year and a half to find out he had a fractured spine. Mr. Herron stated that, yes that is what has been determined, that he was finally allowed to go to a spine specialist and got

permission to X-ray his back. Councilman Wehba still had not had his question answered and asked again if he was saying that Mr. Cunningham was not allowed to use his sick leave or vacation. Mr. Herron stated that his sick leave had not been applied. Councilman Wehba asked him what he meant by the sick leave had not been applied. Mr. Herron stated that sometime in October he stopped receiving payments. November 1st he received no more income. Mr. Herron stated that under the Handbook when employees are on sick leave they are allowed to use their sick leave to continue to get paid holiday time. Councilman Wehba asked if Mr. Cunningham requested to be allowed to use his sick leave, he stated that he did not know he was just trying to find out. Mr. Herron said that he was not accusing, he is only trying to inform the council what he knows and that is that Mr. Burke, Mr. Cunningham's Workers Comp attorney, sent a letter to the city on October 24th asking the city to address the issue of the six month extension which he is asking for tonight. Councilman Alexander said that he was not answering the question. Mr. Herron continued by saying that the letter also asked that the 500 hours of sick leave, the 200 hours of vacation and roughly the 1000 hours of overtime be drawn on if there was a problem with the extension. Councilman Wehba stated overtime? Mr. Herron responded yes. Councilman Wehba said that he did not know that the Chief, department heads were allowed to have overtime. He then said that it was another issue and then asked again if Mr. Cunningham make an application or make it known his need to use his sick leave. Mr. Herron stated that Mr. Burke on Mr. Cunningham's behalf wrote a letter to the city. Councilman Alexander stopped him and said that Mr. Cunningham needs to request it. Mr. Jernigan said some things needed to be cleared up. He stated that Mr. Burke informed the city that if the extension is not granted then the time should be applied. Mr. Jernigan stated to Mr. Herron that he keeps tuning it around to make it look like the city is doing something on the bad side. Mr. Herron said that he is not accusing the city of anything, what he is there for or asking the city. This time Mr. Jernigan stopped him and said that in his letter he accuses the city of quite a few things and he told him that he needed to advise the Council that also in that letter the doctor, Dr. Wright, has also found and recommended that Mr. Cunningham is not temporarily totally disabled. Mr. Jernigan asked him if he was claiming that Mr. Cunningham is temporarily totally disabled contrary to what the doctor finds. Mr. Herron said no, he was not claiming anything about that. All he is telling the council is that the doctor had determined that Mr. Cunningham has a fractured spine. Mr. Jernigan said that he agreed but that the letter also states that the doctor made a finding that he is not temporarily totally disabled, which is a requirement under the Statute, is that correct. Mr. Jernigan read from the Statute (if a temporary sickness or disability is found to exist), we have a doctor that is an independent examining doctor that says that he is not temporarily totally disabled. Mr. Herron at different times during Mr. Jernigan speaking answered yes. Then when Mr. Jernigan was finished Mr. Herron stated that he does not know that the doctor has made a finding on that. Mr. Jernigan asked him if he had seen the letter and Mr. Herron stated that he had not. Mr. Jernigan stated that then that explains it. Councilman Wehba said there are actually two ways to accomplish a common goal. He stated

that either the six month extension could be granted or Mr. Cunningham can make an application with the city to use his sick leave and or his vacation time which is already funding by the city at this time, which would require no more funding by the city at this time. Mr. Herron stated that the Statute allows the city to extend his time without having to do anything with his sick leave or vacation time. Councilman Smith asked if they grant the extension then he can come back and ask for his benefits later. Mayor Tardibono stated yes when it is finished. Councilman Alexander stated yes he is just putting those on hold. Mr. Jernigan stated that Workers Comp has not made a determination as to whether he is temporarily totally disabled or not. He stated that he has been pushing the comp court to hurry up and make their decision whether he is temporarily totally disabled. Mr. Herron stated that he would like to know the answer to that. That is a shared goal. Mr. Jernigan stated that the issue the judge is going to have to make is whether the injury Mr. Herron has mentioned is job related. Councilman Frisbie asked what Mr. Cunningham had been being paid. Mayor Tardibono stated that Mr. Cunningham has been receiving six months of salary. Now what they are asking for is six months more of salary at the same time he will be accruing more sick leave and more vacation time because he will be on salary plus if this is approved then the city's hands will be tied for another six months. Mr. Jernigan said that the council can authorize it, the Statute says for a period of not more than six months. He then read more of the Statute, The salary shall be paid by the municipality of the member, and shall continue while the member is temporarily sick or disabled. We have a finding that he is not temporarily disabled or at least a report to that affect. Continuing with the reading of the Statute, for a period of not more than six months, we are at the end of that, then it goes ahead and says, with the municipality having the option. He pointed out to the council that the first word was shall and the second was option. Continuing, option of extending the period for up to an additional six months, not to exceed twelve months. He then finished with, after which period the provisions of the disability benefits of the Oklahoma Firefighters pension shall apply. Mr. Herron said that what he was there for was to ask for the six month extension. Mayor Tardibono asked if there was any further questions or discussion. Councilman Curl stated that he may have not heard Mr. Herron correctly, just before he read the list of doctors he was going through the process, the report the process before he started going to the doctor. Mr. Herron said the city required Mr. Cunningham to file an injury report which he attempted to file and Mr. Herron stated he believes eventually got filed. Councilman Curl asked what was filed, when was this. Mr. Herron stated that he tried to file the day of the injury, it was not accepted and he was told he could not file it. Mr. Cunningham eventually, Mr. Herron believed on July 31st, as he understands it made a demand that it be placed in his medical file. Mr. Herron said he does not know if it ended up there or not. Councilman Curl asked who told him that he could not. Mr. Herron stated that he was told by the City Clerk or the Assistant City Clerk that the Mayor told them, the Mayor would not talk to him at this point, that he could not file the report and that he was not injured and could not seek medical treatment from a doctor through the Workers Comp system. He

eventually did do that because he knew that the city used Concentra, so he went down and eventually saw Concentra and started the process on his own. He stated that he does not know if the city ever approved that he actually did that. Councilman Curl stated that he just wanted to make sure that he understood all of that. Mr. Herron, again stated that his point was that Mr. Cunningham needed to be treated fairly and he is just asking them to do that. He said he thought he was asking them to treat him the way they would want to be treated if they found themselves with a fractured spine from an injury that was on the job. The Mayor thanked him. Councilman Johnson asked Mr. Herron if any of the other doctors that he had seen had made any determination about his disability. Mr. Herron stated that some of them determined that he could return to work under what was called light duty, he was not sure the determination was ever made specifically to his disability. Councilman Wehba stated that there is no light duty. Mr. Herron stated that he attempted to, actually he did return for a short time and there was discussion between the city and Mr. Herron as to what light duty was and he returned for a short time trying to be on light duty but it was then determined there was no light duty. Councilman Wehba said the city has no provision for light duty. Councilman Alexander said that no city does. Mr. Herron stated that it was determined after he had attempted to do that. Again the Mayor thanked him. She then asked former Mayor Wood if he would like to say anything. At first he said no and then approached the podium. He stated that he really did not have anything to say except the part about him directing somebody that Mr. Cunningham could not file a claim, that part was completely made up. But, other than that it is now their problem. The Mayor then called upon Mr. Pike who voiced his displeasure that Mr. Wood had not filled out a form to speak yet was allowed to speak. The Mayor stated that she had a clarification question and if anyone on the council has a question they are allowed to ask. Mr. Pike pointed to a couple of councilmen saying to them to remember that they were there back in 1997 or 1998 when Ron McCune was granted the extension the same thing that Mr. Cunningham or Mr. Herron is asking for him the additional six months. The Mayor told Mr. Pike that Mr. McCune is not under discussion at this time and then thanked Mr. Pike. Mr. Pike stated no, but he brought it up that he did have it before. Councilman Curl then stated that he was not there at that time and Mr. Pike told him he was because they were both came on at the same time. Councilman Wehba then stated that Mr. Cunningham had been paid \$39,000 over that first six month period and wanted to know if it was in the budget for this. He was told no.

Motion by Hayes, second by Smith to deny the extension of an additional six months. Poll vote: Alexander, yea; Johnson, nay; Wehba, yea; Frisbie, yea; Curl, nay; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed.

18. New Business ("New Business" is defined by the Open Meeting Act as any matter not known about or which could not have been reasonably foreseen prior

to the time of posting of the agenda of a (“surprise nature”)).

None.

19. Discussion and possible action on contract and negotiations with I.A.F.F. Local #2374 and the City of Warr Acres, including discussion and action on entering into Executive Session as allowed under 25 O.S. Supp. 307 (B) (2), Discussing negotiations concerning employees and representatives of employee groups.
20. Discussion and possible action on entering into executive session as allowed under 25 O.S. Supp. 307 (B) (4), confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceedings in the public interest.

Bob Jernigan stated that there would be no need for Executive Session since he had not heard from the I.A.F.F. and there were no new claims filed against the city.

21. The meeting was adjourned at 9:14 p.m.
Respectfully submitted,

Pamela McDowell-Ramirez
City Clerk

MINUTES

**CITY OF WARR ACRES
PUBLIC WORKS AUTHORITY MEETING
TUESDAY
DECEMBER 2, 2003
7:00 p.m.**

1. The meeting was called to order at 9:14 p.m. Declaration of a quorum present was given.

ROLL CALL

PRESENT

Chairperson Marietta Tardibono
Vice-Chair Justin Frisbie
Trustee Jimmy Alexander
Trustee Walter Johnson
Trustee Bob Wehba
Trustee Barry Curl
Trustee Tom Smith
Trustee Greg Hayes

ABSENT

Trustee Mike Gossman

2. Approve the minutes of the Regular Warr Acres Public Works Authority Meeting of November 4, 2003. ****

Motion by Wehba, second by Hayes to approve the minutes. Poll vote:
Alexander, yea; Johnson, nay; Wehba, nay; Frisbie, yea; Curl, yea; Smith, yea;
Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

3. Approve payment of claim in the amount of \$60,541.93 to the Bethany-Warr Acres Public Works Authority for the Warr Acres portion of the Joint Trust and Bond Retirement for the month of November, 2003.

Motion by Wehba, second by Smith to approve the payment. Poll vote:
Alexander, yea; Johnson, nay; Wehba, nay; Frisbie, yea; Curl, yea; Smith, yea;
Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

4. The meeting was adjourned at 9:16 p.m.

Respectfully submitted,

Pamela McDowell-Ramirez
City Clerk

MINUTES

**MEETING OF THE TRUSTEES OF THE WARR ACRES
ECONOMIC DEVELOPMENT AUTHORITY
5930 NW 49TH STREET,
WARR ACRES, OKLAHOMA
TUESDAY
DECEMBER 2, 2003
7:00 p.m.**

1. The meeting was called to order at 9:16 p.m. Declaration of a quorum present was given.

ROLL CALL

PRESENT

Chairperson Marietta Tardibono
Vice-Chair Justin Frisbie
Trustee Jimmy Alexander
Trustee Walter Johnson
Trustee Bob Wehba
Trustee Barry Curl
Trustee Tom Smith
Trustee Greg Hayes

ABSENT

Trustee Mike Gossman

2. Approval of Minutes of the Meeting of Economic Development Authority Regular Meeting of November 4, 2003 and Special Meeting of November 18, 2003.

Motion by Frisbie, and second by Wehba to approve the minutes of the meetings.
Poll vote: Alexander, yea; Johnson, nay; Wehba, nay; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed Unanimously.

3. Discussion and possible action on setting policies towards businesses and possibly entering into Executive Session as allowed under 25 O.S. Supp 307 (10), All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces, or study group supported in whole or part by public funds, or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business.

Motion by Smith, second by Frisbie to enter into Executive Session. Poll vote: Alexander, yea; Johnson, nay; Wehba, nay; Frisbie, yea; Curl, yea; Smith, yea; Hayes, yea; and Tardibono, yea.

Motion Passed.

The Authority entered into Executive Session at 9:18 p.m.

The Authority returned to Open Session at 10:09 p.m. WITH NO ACTION TAKEN.

4. The meeting was adjourned at 10:09 p.m.

Respectfully submitted,

Pamela McDowell-Ramirez
City Clerk